

2 CCR § 2003

Cal. Admin. Code tit. 2, § 2003

Barclays Official California Code of Regulations [Currentness](#)

Title 2. Administration

Division 3. State Property Operations

Chapter 1. State Lands Commission

Article 2. Leasing or Other Use of Public Lands ([Refs & Annos](#))



§ 2002. Categories of Leases, ~~or~~ Permits, or Agreements.

(a) General Lease: Uses may include the following:

- (1) Commercial: Income producing uses such as marinas, restaurants, hotels, clubhouses, ~~recreation~~ piers, ~~recreational~~ facilities, docks, moorings, buoys, helicopter pads, decks, ~~mineral extraction~~, or gas service facilities.
- (2) Industrial: Uses such as oil terminals, piers, wharves, warehouses, stowage sites, moorings, dolphins and islands; ~~together with necessary appurtenances~~.
- (3) Right of Way: Uses such as roadways, power lines, pipelines or outfall lines, ~~except when used only as necessary appurtenances~~.
- (4) Grazing: Uses such as the feeding of livestock on forage.
- (5) Agricultural: Uses such as farming, silviculture and horticulture.
- (6) Recreational: Uses such as a fixed facility for the docking or mooring of boats, buoys, swimming floats, platforms, and swim areas-. Other uses may include campsites, cabins, dwellings, arks, houseboats, decks or boathouses provided that when such uses are located on sovereign lands if such those uses are not found to be inconsistent with public trust needs, constructed for the use of the littoral landowner, as specified in Public Resources Code Section 6503.5, and does not include swimming floats or platforms, sun decks, swim areas, fishing platforms, residential, recreational dressing, storage or eating facilities or areas attached or adjacent to recreational piers, or any other facilities not constructed for the docking or mooring of boats.
- (7) Public Agency: Uses such as public roads, bridges, recreation areas or wildlife refuges having a statewide public benefit.
- (8) Protective Structure: Uses such as groins, jetties, sea walls, revetments, breakwaters and bulkheads.
- (9) Dredging: Uses such as the removal of sediment to improve navigation and ensure public health and safety, and excavation.
- (9) ~~Non Income Producing: Uses such as piers, buoys, floats, boathouses, docks, waterski facilities, and campsites not qualifying for a private recreational pier permit under 2002(f). Other uses may include campsites, cabins, dwellings, arks, houseboats, or boathouses provided that when such uses are located on sovereign lands that such uses are not found to be inconsistent with public trust needs.~~
- (10) Other uses that are not specifically identified above, such as environmental preservation, mitigation, or restoration; or protection against invasive species.

(b) ~~General~~ Permits or Other Agreements: Uses may include the following:

- (1) Salvage Permit: Use includes all salvage operations on sovereign lands under the Commission's jurisdiction. Salvage operation means any activity, including search by electronic means, or exploration or excavation using tools or mechanical devices, with the objective of locating, and recovering, removing, or repositioning vessels, aircraft, or portions thereof, or any other cultural object from the surface or subsurface of sovereign lands.

(2) Archaeological Permit: Activities such as surveying and identification of cultural resource sites, testing and evaluation of sites to determine eligibility for inclusion in the California Register of Historical Resources or the National Register of Historic Places, and data recovery for sites at risk of loss or damage by natural forces, vandalism, or unauthorized collection. Data recovery required as mitigation under the California Environmental Quality Act for a project approved by the Commission shall not require a separate archaeological permit.

(3) Forest Management Agreement: Uses such as reforestation, improvement of timber growth and soil productivity, vegetation control, reduction of fire and erosion hazards, insect or disease control or any other use that enhances the value of lands subject to the agreement.

~~(1) Public agency uses such as public roads, bridges, recreation areas or wildlife refuges having a statewide public benefit;~~

~~(2) Public Resources Code Section 6321 protective structures such as groins, jetties, sea walls, breakwaters and bulkheads;~~

~~(3) Non income producing uses such as piers, buoys, floats, boathouses, docks, waterski facilities, and campsites not qualifying for a private recreational pier permit under 2002(f). Other uses may include campsites, cabins, dwellings, arks, houseboats, or boathouses provided that when such uses are located on sovereign lands that such uses are not found to be inconsistent with public trust needs.~~

~~(c) Grazing Lease: Use includes the feeding of livestock on forage.~~

~~(d) Agricultural Lease: Uses may include farming, silviculture and horticulture.~~

~~(e) Forest Management Agreement: Uses may include reforestation, improvement of timber growth and soil productivity, vegetation control, reduction of fire and erosion hazards, insect or disease control or any other use that enhances the value of lands subject to the agreement.~~

~~(f) Private Recreational Pier Permit: Use is limited to any fixed facility for the docking or mooring of boats constructed for the use of the littoral landowner, as specified in Public Resources Code Section 6503.5, and does not include swimming floats or platforms, sun decks, swim areas, fishing platforms, residential, recreational dressing, storage or eating facilities or areas attached or adjacent to recreational piers, or any other facilities not constructed for the docking or mooring of boats.~~

~~(g) Salvage Permit: Use includes the salvage of all abandoned property over and upon ungranted tide and submerged lands of the State which property belongs to the State and is under the Commission's jurisdiction pursuant to Public Resources Code Section 6309. The Commission may retain or sell any or all salvaged property or may allow the permit applicant to retain it.~~

Note: Authority cited: Sections 6105, 6108, 6201, 6210.3, 6221, 6309, 6321, 6322, 6501, 6501.1, and 6501.2, Public Resources Code. Reference: Sections 6201, 6309, 6321, 6501.1, and 6503.5, Public Resources Code.

2 CCR § 2002, 2 CA ADC § 2002§ **2003. Rental or Other Consideration.**

(a) ~~Rental~~ or other consideration for the various categories of uses shall be in the best interest of the State and ~~may be based on one or more of the following methods~~generally as follows:

(1) 9% of the appraised land value;

(2) A percentage of annual gross income (the percentage being based on an analysis of the market for like uses and other relevant factors);

(3) Comparison to rents for other similar land or facilities;

(4) \$0.05 per diameter inch per lineal foot of pipeline, conduit, or fiber optic cable;

(5) Benchmarks for regions where there are large concentrations of similar facilities (benchmark rental rate to be based on analysis of similar or substitute facilities in the local area);

(6) For salvage permit operations, the Commission shall agree to a division of the net value of State-owned objects recovered by the permittee, after a deduction of reasonable salvage cost.

The percentage of the net value of State-owned objects retained by the Commission shall be based on the complexity of the project and may be negotiated. The State retains ownership of all items recovered until released and has a first right to select objects and may retain any or all of the objects recovered. If the State elects to retain objects with a value greater than its agreed percentage share, it shall reimburse the permittee to the extent of the agreed division of value.

- (7) For archaeological permits, artifacts collected shall remain State property, except that the Commission may authorize the transfer of title to artifacts for the purposes of research or display to museums, educational institutions, or other appropriate locations available to the public; or to a culturally affiliated Native American tribe.
- (8) For Forest Management Agreements: Rent may constitute enhancement of the land's value resulting from the use;
- (9) Other such methods or information that are based on commonly-accepted appraisal practices and principles.
- (10) For leases for a recreational pier or buoy, rent shall be based on local conditions and local fair annual rental values; ~~or~~

(b) Notwithstanding section (a) above, minimum annual rents for the various lease/permit categories shall be as follows:

- (1) Commercial Use: \$600
- (2) Industrial Use: \$600
- (3) Right of Way Use: \$450
- (4) Grazing: \$600
- (5) Agricultural: \$600
- (6) Recreational: \$125
- (7) Public Agency: \$125;
- (8) Protective Structure: \$125;
- (9) Dredging: \$125;
- (10) All other General Lease or Permits: \$125.

~~(1) Commercial Use: An annual rental based on any one or combination of the following rental methods, with a minimum rental of \$250:-~~

~~(A) A percentage of annual gross income (the percentage being based on an analysis of the market for like uses and other relevant factors);-~~

~~(B) 9% of the appraised value of the leased land;-~~

~~(C) The volume of commodities passing over the lease premises.-~~

~~(2) Industrial Use: An annual rental based on any one or combination of the following rental methods with a minimum rental of \$250:-~~

~~(A) 9% of the appraised value of the leased land and/or together with 2H per diameter inch per lineal foot of pipelines and conduits on the leased premises;-~~

~~(B) The volume of commodities passing over the lease premises.-~~

~~(3) Right of Way Use: An annual rental based on any one or combination of the following rental methods with a minimum rental of \$100:-~~

~~(A) 9% of the appraised value of the leased lands, and/or together with compensation for any damage caused to such lands;-~~

~~(B) 2 cents per diameter inch per lineal foot;-~~

~~(C) The volume of commodities passing over the lease premises.-~~

~~(4) General Permits: Annual rental shall be based on 9% of the appraised value of the leased lands with a minimum rental of \$50.~~

(c) Effective January 1, 2014, the minimum annual rents for the various lease/permit categories will be recalculated every five (5) years, at the end of June, using the adjustment formula identified in section 1900(m). Regardless of whether the application of the Adjustment Formula results in an adjusted minimum annual rent that is greater or lesser value than the previous year's rent, the adjusted minimum annual rent will never be lower than the minimum annual rents set in section 2003(b).

(de) The following may be considered by the Commission in determining which rent method should apply:

- (1) The amount of rent the State would receive under various rental methods;
- (2) Whether relevant, reliable and comparable data is available concerning the value of the land proposed to be leased;
- (3) Whether a particular method or amount of rent would effectively cause an applicant to use more competitive substitute land or to abandon its project altogether;
- (4) Whether the land proposed to be leased has been classified as environmentally significant pursuant to Public Resources Code Section 6370.1.
- (5) The monetary value of actual or potential environmental damage anticipated from an applicant's proposed use to the extent such damage is quantifiable;
- (6) The appropriateness of the proposed rental method.

(ede) Other Factors in determining Rent or Other Consideration:

- (1) Authority for rent adjustment during the lease term shall be provided and may include application of the California Consumer Price Index.
- (2) Lease areas may include a reasonable impact area beyond the footprint of the actual facilities or improvements occupying State land, based on local conditions. The impact area is intended to reflect the additional use of State land by the lessee for the docking of vessels, maintenance of the facility, or other such uses, as well as the deterrent effect to public access and use caused by the facilities or improvements. Rent may be charged for the impact area.
~~— Lease areas may include a reasonable 'public impact and use area' beyond the footprint of the actual facilities or improvements occupying State land based on local conditions. The 'public impact and use area' is intended to reflect the additional and temporary use, as well as impacts to public access, of State land for the docking of vessels, maintenance of the facility, or other such uses. Rent may be charged for the 'public impact and use area'.~~
- (3) In addition to the annual rent or other consideration, the Commission may require the lessee/permittee to pay an annual administrative fee for the reimbursement of staff costs associated with, but not limited to, lease/permit compliance; enforcement; periodic rent reviews, insurance or surety review; or other such activities as may be reasonably required over the term of the lease/permit. The annual administrative fee may be charged as either a flat rate or as a percentage of the rent.
- ~~(4) Rent may be discounted or waived. No rental shall be charged for public agency use of tide and submerged sovereign lands if the Commission, at its sole discretion, determines that a significant regional or statewide public benefit is provided or accrues from such use.~~
- ~~(4) Monetary rental for Public Resources Code Section 6321 protective structures may be waived if the Commission determines that a significant regional or statewide public benefit accrues from the installation of such structures.~~

~~(5) Private Recreational Pier Permits: Pursuant to Public Resources Code Section 6503.5 a rent free permit shall be issued to those applicants demonstrating their qualifications under that section as implemented by 2002(f).~~

~~(6) Grazing: An annual rental based on appraised value for the intended use.~~

~~(7) Agricultural: An annual rental based on any one or a combination of the following rental methods with a minimum rental of \$250:~~

~~(A) A percentage of annual gross income (the percentage being based on analysis of the market for like uses and other relevant factors);~~

~~(B) 9% of appraised value of the leased lands.~~

~~(8) Forest Management Agreements: Rental shall constitute enhancement of the land's value resulting from the use.~~

~~(9) Salvage Permit: Rental shall be as follows:~~

~~(A) A rental of \$25.00 per annum per acre, computed on a whole or fractional basis, for the total acreage of the permit area; and~~

~~(B) 25% of the net salvage value up to \$25,000 and 50% of all such value over that amount for all salvaged property the salvor is permitted to retain; or~~

~~(C) The net salvage value of any property the State retains less any rental to which it is entitled; and~~

~~(D) Such other consideration as may be deemed by the Commission to be in the best interest of the State.~~

~~(db) The following factors shall be considered by the Commission in determining which rental method should apply:~~

~~(1) The amount of rental the State would receive under various rental methods;~~

~~(2) Whether relevant, reliable and comparable data is available concerning the value of the land proposed to be leased;~~

~~(3) Whether a particular method or amount of rental would effectively cause an applicant to use more competitive substitute land or to abandon its project altogether;~~

~~(4) Whether the land proposed to be leased has been classified as environmentally significant pursuant to Public Resources Code Section 6371.~~

~~(5) The monetary value of actual or potential environmental damage anticipated from an applicant's proposed use to the extent such damage is quantifiable;~~

~~(6) Other factors relating to the appropriateness of the proposed rental method.~~

~~(c) The following limitations shall apply to rental based on the volume of commodities passing over State lands:~~

~~(1) Rental shall not be imposed more than once for the identical commodity passing over the same State land if the ownership of that commodity has not changed.~~

~~(2) The rental rate for a right-of-way for passage of a commodity across State lands shall be made proportional to the percentage of the total length of the pipeline or conduit that such right-of-way comprises. For the purposes of this section, the total length of a pipeline or conduit shall be the length~~

~~of the pipeline or conduit between two facilities, uninterrupted by another facility. "Facility" includes terminal, production, storage, refining, manufacturing, processing, mixing or intermixing facilities.~~

~~(d) Rent adjustment during the lease term shall be provided for as appropriate, and may include application of the California Consumer Price Index.~~

Note: Authority cited: Sections 6105, 6108, 6309, 6321.2, 6503, and 6503.5, ~~and 6504~~, Public Resources Code. Reference: Sections 6321.2, 6370.1, 6503, and 6503.5, ~~and 6504~~, Public Resources Code.

HISTORY

1. Editorial correction of printing error in subsection (a) (Register 92, No. 22).

2 CCR § 2003,  **2 CA ADC § 2003** 

This database is current through 8/26/11 Register 2011, No. 34

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